

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DeLeys et al

Atty. Ref.: 2551-141; Confirmation No. 3673

Appl. No. 10/822,871

TC/A.U. 1648

Filed: April 13, 2004

Examiner: Blumell

For: SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS
C VIRUS

* * * * *

September 23, 2010

Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RULE 181 PETITION

Correction of the Patent Office records to indicate that the parent application no. 07/920,266 is a 371 U.S. National Phase of International Application No. PCT/EP91/024089 filed December 13, 1991 is requested.

The undersigned acknowledges, with appreciation, the teleconference of September 23, 2010 with Ms Tamara Graysay of the PCT Legal Office, who suggested that the present Petition be filed to again request a Corrected Filing Receipt in the above and correction of the Patent Office records relating to the parent application no. 07/920,266.

A copy of the history of application no. 07/920,286 obtained from the Patent Office is being concurrently filed and identified in the PTO IFW as an "NPL" document.

A fee is not believed to be required for consideration of the present Petition however the Office is authorized the charge the undersigned's Deposit Account No. 14-1140 for any required fee.

A Corrected Filing Receipt is requested which accurately reflects the status of the parent application no. 07/920,266 as a 371 U.S. National Phase of International Application No. PCT/EP91/024089 filed December 13, 1991.

The applicants have filed similar requests on July 2, 2004, April 27, 2005, May 9, 2005, February 20, 2007, May 27, 2009¹. The undersigned has received from the Patent Office a Notice Regarding Benefit/Priority Claim(s) dated September 27, 2004 and a Response to Request for Corrected Filing Receipt dated June 3, 2009 indicating that the prior filed Non-provisional application no. 07/920,266 "has been improperly indicated as a National Stage (35 U.S.C. 371) Application". The latest "Response" states the following:

"The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless the applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit

¹ The Requests filed July 2, 2004, April 27, 2005 and May 9, 2005 identified international application no. PCT/EP91/024089 as having been filed December 31, 1991, as identified in the original Patent Office Filing Receipt.

International Application no. PCT/EP91/024089 was filed December 13, 1991, as noted in the applicants Preliminary Amendment filed April 13, 2004, the applicants Declaration filed August 18, 2004, the applicants Renewed Request filed February 20, 2007, the applicants Request for Correction of Corrected Filing Receipt filed May 27, 2009, the Supplemental Application Data Sheet filed May 27, 2009, the Notification of Acceptance mailed in application no. 07/920,266 reproduced below, and the attached Missing Requirements Under 35 U.S.C. 371 dated August 28, 1992 mailed in application no. 07/920,266.

The first paragraph of the specification has been corrected in a concurrently-filed Amendment.

such request without such evidence. Applicant should submit an amendment (or an applicants data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application."

The "evidence" described in the "Response" dated June 3, 2009 and quoted above was supplied however in at least the applicants Request of February 20, 2007 and Response of April 27, 2005. Specifically, the applicants previously supplied a copy of the Notice of Acceptance dated January 6, 1993 from Application No. 07/920,286 confirming that the application no. 07/920,286 is a U.S. national phase of PCT/EP91/02409. See page 5 of the Renewed Request filed February 20, 2007 and page 5 of the applicants Request for Correction of Filing Receipt filed by facsimile on April 27, 2005. The following is a further reproduction of the Notification of Acceptance confirming the Patent Office treatment of application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409:

NIXON & VANDERHYE PC3 Fax:703-816-4100

Apr 27 2005 14:01

P. 05

COPY

WILLIAM W. BECKETT BANNER, BIRCH, MC KIE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597 JAN 08 1993		UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EQ/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 Date of Mailing 6 JAN 1993 File Reference 137.040302	
IDENTIFICATION OF THE INTERNATIONAL APPLICATION			
International application Number PCT/EP91/02409	International filing date 13 DEC 1991	Priority date claimed 14 DEC 1990	
Applicant for DO/EQ/US DELEYS, ROBERT J. POLLET, DIRK MAERTENS, GEERT AND VAN HEINVERSTADT			
NOTIFICATION			
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.			
The United States Serial Number assigned to the application and the relevant dates are: W/920286 14 OCT 1992 14 OCT 1992 U.S. NATIONAL SERIAL NO. 35 U.S.C. 102(e) DATE DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS			
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371 (f) was received on 14 OCT 1992 and the application will be examined in turn. <input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371 (f) was received. The application will not be processed or examined before the time limit set forth in either <input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT) whichever is applicable.			
UNITED STATES DESIGNATED/ELECTED OFFICE			
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Attn. DO/EQ/US Washington, D.C. 20231		AUTHORIZED OFFICER <i>Monica J. Doney</i>	

Form PCT/DO/EQ/903 (U.S. Version) (April 1987)

U.S. DEPARTMENT OF COMMERCE - PTO

The applicants Preliminary Amendment of April 13, 2004 identified application no. 07/920,286 as a U.S. national phase of PCT/EP91/02409.

The following evidence that application no. 07/920,286 is a 371 U.S. National Phase of PCT/EP91/02489 is contained in the attached file history and reproduced below:

The file jacket indicating along the top "FILED UNDER 35 USC 371"

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

[illegible]

DeLeys et al
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The Notice of Missing Requirements dated August 28, 1992 which set a due date for filing the inventors' Declaration by October 14, 1992 (i.e., 22 months from the earliest claimed priority date):

1692664

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Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

U.S. DEPARTMENT OF COMMERCE		FILE NO.	INVENTOR'S DOCKET NUMBER		
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DOE/OUS)		37-042502	#4		
INTERNATIONAL APPLICATION NO. PCT/US91/02429	INTERNATIONAL FILING DATE 13 December 1991 (13.12.91)	PRIORITY DATE CLAIMED 18 December 1990 (18.12.90)			
TITLE OF INVENTION SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C VIRUS					
APPLICANT(S) FOR DOE/OUS: DELEYS, Robert J.; POLLEY, Dick; MORGENSEN, Gert; and					
1. This express request to immediately begin national examination procedures (39 U.S.C. 3710)					
2. The U.S. National Fee (39 U.S.C. 371(c)(1)) and other fees as follows:					
CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS		-30 =		x \$12.00	\$
INDEPENDENT CLAIMS		-3 =		x \$56.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)				+ \$120.00	
BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(4)).					
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.462) \$30					
<input type="checkbox"/> No international preliminary examination fee paid to USPTO (37 CFR 1.462) but international search fee paid to USPTO (37 CFR 1.445 (a)(2)) \$370					
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.462) nor international search fee (37 CFR 1.445 (a)(2)) paid to USPTO \$500					
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.462) and all claims satisfied provisions of PCT Article 33(2) to (4) \$500					
Surcharge of \$120, for furnishing the National fee or oath or declaration later than 30 mos. from the earliest claimed priority date (37 CFR 1.492(e)). \$ 120.00					
TOTAL OF ABOVE CALCULATIONS				x 130.00	
Reduction by 1/2 for filing by small entity, if applicable. Affidavit must be filed also. (Note 37 CFR 1.9, 1.27, 1.28) \$ 65.00					
SUBTOTAL				+ 65.00	
Processing fee of \$30, for furnishing the English Translation later than 30 mos. from the earliest claimed priority date (37 CFR 1.492(f)).					
TOTAL NATIONAL FEE				\$ 65.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). + 40.00					
TOTAL FEES ENCLOSED				\$ 105.00	
a. <input checked="" type="checkbox"/> A check in the amount of \$ 105.00 to cover the above fees is enclosed.					
b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is authorized.					
c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-0733. A duplicate copy of this sheet is enclosed.					

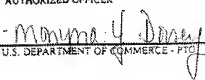
<p>3. A copy of the International Application as filed (35 U.S.C. 371(c)(2))</p> <p>a. <input type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau)</p> <p>b. <input type="checkbox"/> is not required, as this application was filed in the United States Receiving Office (RCAUS)</p> <p>c. <input type="checkbox"/> has been transmitted by the International Bureau</p> <p>4. <input checked="" type="checkbox"/> A translation of the International Application into English (35 U.S.C. 371 (c)(2))</p> <p>5. Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p>a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau)</p> <p>b. <input type="checkbox"/> have been transmitted by the International Bureau</p> <p>6. <input checked="" type="checkbox"/> A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p>7. <input checked="" type="checkbox"/> An oath or declaration of the inventor (35 U.S.C. 371(c)(4))</p> <p>8. <input checked="" type="checkbox"/> A translation of the Abstracts to the International Preliminary Examination Report under PCT Article 36(35 U.S.C. 371(c)(5))</p> <p>Other document(s) or information included:</p> <p>9. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>10. <input checked="" type="checkbox"/> An assignment document for recording.</p> <p>Please mail the recorded assignment document to:</p> <p>a. <input type="checkbox"/> the person whose signature, name & address appears at the bottom of this page.</p> <p>b. <input checked="" type="checkbox"/> the following:</p> <p>16. <input checked="" type="checkbox"/> Also submitted is a Verified Statement (Declaration) Claiming Small Entity Status.</p> <p>11. The above checked items are being transmitted</p> <p>a. <input type="checkbox"/> before the 18th month publication.</p> <p>b. <input type="checkbox"/> after publication and the Article 20 communication but before 20 months from the priority date.</p> <p>c. <input checked="" type="checkbox"/> after 20 months but before 22 months (surcharge and/or processing fee included).</p> <p>d. <input type="checkbox"/> after 22 months (surcharge and/or processing fee included).</p> <p>Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 22 months and no proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.</p> <p>e. <input type="checkbox"/> by 30 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date.</p> <p>f. <input type="checkbox"/> after 30 months but before 32 months and a proper demand for International Preliminary Examination was made by the 18th month from the earliest claimed priority date (surcharge and/or processing fee included).</p> <p>g. <input type="checkbox"/> after 32 months (surcharge and/or processing fee included).</p> <p>Note: Petition to revive (37 CFR 1.137(a) or (b)) is necessary if 35 U.S.C. 371 requirements submitted after 32 months and a proper demand for International Preliminary Examination was made by 18 months from the earliest claimed priority date.</p> <p>12. At the time of transmittal, the time limit for amending claims under Article 19</p> <p>a. <input type="checkbox"/> has expired and no amendments were made.</p> <p>b. <input type="checkbox"/> has not yet expired.</p> <p>13. <input checked="" type="checkbox"/> Certain requirements under 35 U.S.C. 371 were previously submitted by the applicant on August 13, 1992</p> <p>NAME <u>Edward T. McKee</u></p> <p>ADDRESS <u>Barnes, Bloch, McKee & Bockett</u></p> <p><u>1801 G Street, N.W., Eleventh Floor</u></p> <p><u>Washington, D.C. 20001-4597</u></p> <p>SIGNATURE <u>Edward T. McKee</u> 17,335</p> <p>REGISTRATION NUMBER</p>	<p>ATTORNEY'S EXAMINATION NUMBER</p> <p>740502</p>
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Form PTO 1200 (Rev. 5-80)

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR

1.494 or 1.495 mailed January 6, 1993:

WILLIAM W. BECKETT BANNER, BIRNEY, MC KIE & BECKETT 1001 G STREET, N.W., ELEVENTH FLOOR WASHINGTON, D.C. 20001-4597		UNITED STATES DESIGNATED/ELECTED OFFICE (DOEO/US) NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495	
		Date of Mailing 6 JAN 1993	
		File Reference 137,040,592	
IDENTIFICATION OF THE INTERNATIONAL APPLICATION			
International application Number	International filing date	Priority date claimed	
PCT/EP91/02409	13 DEC 1991	14 DEC 1990	
Applicant for DOEO/US			
DELEYS, ROBERT J. POLLET, DIRK MARTENS, GREGG AND VAN HELDEN/US/AT			
NOTIFICATION			
The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a <input checked="" type="checkbox"/> Designated Office, <input type="checkbox"/> Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR <input checked="" type="checkbox"/> 1.494, <input type="checkbox"/> 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.			
The United States Serial Number assigned to the application and the relevant dates are: <u>W/920286</u> <u>14 OCT 1992</u> <u>14 OCT 1992</u> U.S. NATIONAL SERIAL NO. 35 U.S.C. 102(e) DATE DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS			
<input checked="" type="checkbox"/> A request for immediate examination under 35 U.S.C. 371 (f) was received on <u>14 OCT 1992</u> and the application will be examined in turn.			
<input type="checkbox"/> No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either			
<input type="checkbox"/> PCT Article 23 (Chapter I of the PCT), or <input type="checkbox"/> PCT Article 40 (Chapter II of the PCT) whichever is applicable.			
UNITED STATES DESIGNATED/ELECTED OFFICE			
ADDRESS ONLY: COMMISSIONER OF PATENTS AND TRADEMARKS Box PCT, Attn: DOEO/US Washington, D.C. 20231		AUTHORIZED OFFICER 	

Form PCT/DOEO/901 (U.S. Version) (April 1987)*

U.S. DEPARTMENT OF COMMERCE - PTO

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

The Patent Office "DO/US Worksheet" acknowledging that that applicants have met the requirements of 35 U.S.C. 371 as of October 14, 1992:

U.S. APPLICATION NO.				DO/US WORKSHEET			
INTERNATIONAL APPLICATION NO.	PRIORITY DATE	CHAPTER	DUE DATE	20 MO	30 MO		
10/822,871	14 Dec 92			<input type="checkbox"/>	<input type="checkbox"/>		
INTERNATIONAL FILING DATE	FIRST NAMED APPLICANT FOR DOMESTIC	TOTAL # APPLICANTS					
13 Dec 91	DeLeys, Robert J.						
LANGUAGE OF FILED APPLICATION:	DATE OF RECEIPT OR MAILING:	PUBLICATION:					
English	PCT/IB/302	PUBL. NO. 2002/0154					
	11 Feb 92	PUBL. DATE 25 June 92					
	PCT/IB/304	LANGUAGE English					
	N/A	GAZETTE ISSUE					
	PCT/IB/310A	NOT PUBLISHED:					
	10 July 92	<input type="checkbox"/> US ONLY DOED					
	PCT/IB/310(PD)-PRIORITY DOC. COPY	<input type="checkbox"/> AS OF EP REQ					
	21 June 92						
	PCT/IB/311 - US ELECTED	REQUESTED DOCUMENT FROM IB THAT ARE IN THE FILE: <input type="checkbox"/> YES <input type="checkbox"/> NO					
	N/A	DATE REQUESTED					
	PCT/IB/409 - IPR RECEIVED	<input type="checkbox"/> PCT GAZETTE PAGE					
	N/A	<input type="checkbox"/> SEARCH REPORT					
	35 U.S.C. 371 - RECEIPT OF REQUEST	<input type="checkbox"/> OTHER					
	14 Oct 92						
	DATE ASSIGNMENT RECEIVED	INFORMALITIES NOTI					
	14 Oct 92	<input type="checkbox"/> YES <input type="checkbox"/> NO					
	DATE PRELIMINARY AMENDMENT RECEIVED	<input type="checkbox"/> OATH / DECLARATION					
	N/A	<input type="checkbox"/> OTHER					
	DATE DISCLOSURE STATEMENT RECEIVED						
	N/A						
	DATE DO/EO/905 MAILED						
	28 Aug 92						
	DATE 905 RESPONSE RECEIVED						
	14 Oct 92						
	DATE DO/EO/905 MAILED - ACCEPTANCE NOTICE						
	11/1/93						
	DATE DO/EO/905 MAILED - ABANDONMENT NOTICE						
	N/A						
	DATE 35 U.S.C. 371 REQUIREMENTS MET						
	14 Oct 92						
OTHER RECEIPTS FROM THE APPLICANT AND DATE RECEIVED:							
<input type="checkbox"/> PCT/IB/1449 DISCLOSURE DOC.							
<input type="checkbox"/> ASSIGNMENT							
<input type="checkbox"/> NEW CLAIMS FOR PRIORITY							
<input type="checkbox"/> OTHER							
<p>ARTICLE 20 RECEIPTS</p> <p>NORMAL FROM IB FROM APPLICANT <input type="checkbox"/></p> <p>REQUEST - RO 101 <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>DRAWINGS <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>COPY OF SEARCH <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>NO DRAWINGS ON FILING <input checked="" type="checkbox"/></p> <p>TOTAL NO. OF PRIORITY DOCS. 1</p>							
<p>RECEIPTS FROM APPLICANT UNDER 35 U.S.C. 371</p> <p>COMPLETE AT <input type="checkbox"/> 20 MO <input type="checkbox"/> 30 MO.</p> <p>NATIONAL FEE <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>OATH / DECL. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>TRANSLATION OF:</p> <p>REQUEST <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ABSTRACT <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>WORDS IN DRAWING <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARTICLE 19 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARTICLE 34 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARTICLE 36(3) AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>COMPLETE AT <input checked="" type="checkbox"/> 22 MO <input type="checkbox"/> 32 MO.</p> <p>NATIONAL FEE <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>OATH / DECL. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>TRANSLATION OF:</p> <p>REQUEST <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>DESCRIPTION <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>CLAIMS <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ABSTRACT <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>WORDS IN DRAWING <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARTICLE 34 AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>ARTICLE 36(3) AMDT. <input type="checkbox"/> YES <input type="checkbox"/> NO</p>							

Page 2 of the Office Action dated February 3, 1994 from the Examiner
acknowledging that the application was filed according to 35 U.S.C. § 371":

Serial No. 020206
Art Unit 1802

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It is noted that this case has been filed according to 35 U.S.C. § 371.

Restriction to one of the following inventions is required:

I. Claims 1-7 and 20-25, drawn to first HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

II. Claims 8-14 and 20-25, drawn to second HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

III. Claims 15-19, and 20-25, drawn to third HCV antigen and method of use, classified in Class 530, subclass 324, and Class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

The inventions of Group I, II, and III are distinct because the antigens do not share a common technical feature in that each is encoded by a different region of the HCV genome and the antigens do not share any amino acid sequences nor any epitopes.

Because these inventions are distinct for the reasons given above and because an undue burden would result if two or more of the groups were to be examined together, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

A telephone call was made to Cynthia Poulke on January 4, 1994, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Papers related to this application may be submitted to Group 180 by facsimile transmission. Papers should be faxed to Group 180 via the PTO Fax Center located in Crystal Mall 1. The faxing

Page 2 of the Office Action dated August 16, 1994 from the Examiner again
acknowledging that the application was being treated as having been filed under 35
U.S.C. § 371:

Serial Number: 07/020286

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Art Unit: 1802

Applicant's election with traverse of Group III, Claims 15-19 and 20-25, in Paper No. 13 is acknowledged. The traversal is on the ground(s) that under 35 U.S.C. § 371, lack of unity requires that groups of claims must be identified which have no general inventive concept linking the claims of the groups with each other and that the originally filed claims all related to peptide sequences which are capable of mimicking proteins encoded by HCV and all can be used as reagents for screening blood for antibodies to HCV. This is not found persuasive because 35 U.S.C. § 371 provides for one product and one method of use; claims drawn to different peptides with different sequences and antigenic characteristic, originating from different viral domains and from different viral proteins, represent distinct products which have no common technical feature.

The requirement is still deemed proper and is therefore made FINAL.

Claims 26-32 are pending, original claims 1-25 having been cancelled in Paper No. 14.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention and failing to teach how to make and/or use the invention.

DeLeys et al
Appl. No. 10/822,871
Attny. Ref.: 2551-141
RULE 181 PETITION
September 23, 2010

The Patent Office is requested to correct their records consistent with the file history of application no. 07/920,286. A Corrected Filing Receipt is requested.

Grant of the Petition is requested.

The Office is requested to contact the undersigned, preferably by telephone, in the event anything further is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /B. J. Sadoff/
B. J. Sadoff
Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100